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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,781	01/23/2002	Clint D. Kolda	376.171	6251

7590 07/26/2004

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Milwaukee, WI 53202

EXAMINER
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MATHEW, FENN C

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/054,781

Applicant(s)

KOLDA ET AL.

Examiner

Fenn C Mathew

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10 and 12-24 is/are rejected.
- 7) ☒ Claim(s) 9 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
Jerome W. Donnelly  
Primary Examiner

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8, 10, 12-14, 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Walley GB 765,586. Referring to claim 1, Walley discloses a magnetic resistance device comprising a rotatable member adapted to rotate in response to an input, and an automatically variable magnetic resistance arrangement which interacts with the rotatable member to provide resistance to the input where the resistance arrangement is operable to provide an automatically variable non-linear relationship between the speed of the rotatable member and the resistance provided to the input.
3. Referring to claim 2, Walley teaches the magnetic resistance arrangement comprising an eddy current.
4. Referring to claim 3, Walley discloses a rotatable member rotatable about an axis of rotation, an electrically conductive member located adjacent the rotatable member, and a plurality of magnetic members movably mounted to the rotatable member, wherein the magnetic members are movable relative to the axis of rotation in response to variations in the speed of rotation of the rotatable members, wherein the plurality of magnetic members and the electrically conductive member cooperate to form an eddy current force which resists rotation of the rotatable member, wherein movement of the

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one or more magnetic members functions to alter the location of the eddy current force relative to the axis of rotation to vary the resistance to rotation of the rotatable member in response to the speed of rotation of the rotatable member.

5. Referring to claim 4, Walley discloses as best understood, a the rotatable member comprising a flywheel mounted to a shaft, which in turn is engaged with an input member.

6. Referring to claim 5, Walley discloses the magnetic members located within an open groove associated with the rotatable member, and a retainer positioned over the groove to retain the magnetic member within the groove.

7. Referring to claim 6, Walley discloses the magnetic member slidably retained in the widened portion of the groove.

8. Referring to claim 7, Walley discloses a biasing member (spring) positioned within a narrowed portion defined by the groove wherein the biasing member engages the magnetic member to bias the magnetic member inwardly.

9. Referring to claim 8, Walley discloses the electrically conductive member comprising a disc-shaped member located adjacent the rotatable member.

10. Referring to claim 10, as broadly claimed, Walley discloses vanes which circulate air upon rotation of the rotatable member.

11. Referring to claim 12, Walley discloses and electrically conductive member comprising a primary wall located adjacent a side of the rotatable member and an outer flange located outwardly of the rotatable member.

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12. Referring to claim 13, Walley discloses the magnets movably mounted to a radially extended support that extends outwardly from a hub section defined by the rotatable members, wherein the magnet is biased inwardly toward the hub section and is moved outwardly against the inward bias by centrifugal force caused by rotation of the rotatable member.

13. Referring to claim 14, Walley discloses the rotatable member is formed of a non-magnetic material.

14. Referring to claim 15, Walley discloses the magnetic member positioned by a non-magnetic member (cover).

15. Referring to claim 22, Walley discloses the magnetic resistance improvement comprising a variable position magnetic arrangement that is operable to establish an eddy current resistive force which resists rotation of the rotatable member, wherein the variable position magnetic arrangement is operable to vary the strength of the eddy current resistive force in response to the speed of rotation of the rotatable member.

16. Referring to claim 23, Walley discloses the magnetic arrangement includes a plurality of magnetic members movably mounted to the rotatable member, and an electrically conductive member located adjacent the magnetic members, which cooperates with the magnetic members to establish eddy current resistive force.

17. Referring to claim 24, Walley discloses the magnetic members movable radially outwardly in response to rotation of the rotatable member, and further comprising a biasing arrangement operable to bias the magnetic members.

***Claim Rejections - 35 USC § 103***

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walley alone. Walley discloses the claimed structural limitations for the resistive element as seen in the above paragraphs. The method of use with a bicycle wheel as claimed by the applicant would be obvious to one having ordinary skill in the art, as the method steps are drawn to connecting the device to the wheel of a bicycle and then causing the wheels of the bicycle to rotate as one would when pedaling on a bicycle.

20. Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walley in view of Baatz (U.S. 5,656,001). Referring to claims 16-18, Walley as disclosed in the above paragraphs teach the structural limitations of the resistive device. Walley fails to explicitly disclose a support frame for supporting a bicycle with a wheel. Baatz teaches an analogous device, and teaches a support frame used for attachment between the bicycle and the resistance unit. It would have been obvious to one having ordinary skill in the art at the time of invention to provide a support as taught by Baatz in order to connect the resistance unit of Walley to a bicycle.

21. Referring to claims 19-20, as broadly claimed by the applicant, Walley discloses the rotatable member comprising a flywheel having vanes positioned at an angle (180 degrees).

***Allowable Subject Matter***

22. Claims 9 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record fails to teach a disc-shaped member as claimed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C Mathew whose telephone number is (703) 305-2846. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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fcm

Jerome W. Donnelly  
Primary Examiner

